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"The natural born subject of one prince, to whom he owes allegiance, may be entangled by subjecting himself to another; but, it is his own act that brings him into these straits and difficulties, of owing service to two masters; and it is unreasonable, that, by such voluntary act of his own, he should be able, at pleasure, to unloose those bands, by which he is connected to his natural prince."—BLACKSTONE, Book I. Chap. 10.

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SUMMARY OF POLITICS.

EXPATRIATION.—In the present volume of the Register, at p. 433, there is a letter, signed S. V. "on the necessity of a declaratory law, or stipulation, with foreign powers, respecting the expatriation of British subjects, particularly with the United States of America."—To me, who know how many persons there are in this country, and how many more there are in America, who derive great emolument from acting the double part of British subjects and American citizens, it does not appear at all surprising, that a measure, such as that proposed by S. V. has met with an openly avowed advocate.—S. V. has begun by stating, in support of his doctrine, the opinion of a French writer, named PECQUET; but, of that opinion it will be best to speak, after we have taken a view of the law of England, in this respect, as far as the statutes go.—In order to show, that the statute law favours the supposition, that a British subject may expatriate himself, and may become, to all intents and purposes, an alien, and of course, justifiable in taking up arms against his native country, S. V. refers to the act of 14 and 15 Henry 8th, chapter 4, by which act such subjects of England, as had settled in other countries, and sworn obedience thereunto, should, so long as they should so remain, pay customs, &c. in England, "as other strangers paid." Whence this writer infers, that, "it is implied, that persons may become subjects to other powers, and, that, by such election to depart from their natural allegiance, they become aliens to their native country for so long a time as they shall chuse to continue their new subjection; but, if they elect to become subjects of England again, they may have the king's writ, which will entitle them to their former immunities of Englishmen, upon their residing again in England;" than which inference nothing, in my opinion, can be less warranted by the premises. The sole object of this statute was, to prevent such subjects as were

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settled abroad, and had sworn subjection to foreign states, from enjoying, during their settlement abroad, the rights and immunities enjoyed by their fellow-subjects, who, at the same time, remained at home. The act is purely *prohibitory*; and does, in no possible sense of the words, imply any relinquishment, on the part of England, of its claims to the allegiance of the persons, thus to be treated as aliens, during their settlement abroad, much less does it recognize any right, on the part of those persons, to become enemies of England. It supposes fairly and truly, that Englishmen may possibly become subjects of foreign states. The fact was so; nor was it then, nor is it now, to be prevented by the native country; for, a subject being once landed in a foreign country, what power have you over him, while he remains there? It is for the foreign country to determine, whether it will admit him to become its subject, and to share in its immunities; it is for you, while he so remains, to deprive him, if you please, of the immunities of his native country, as was done by this act of Henry VIII.; but, you do not, thereby, lose any of your rights with respect to him, nor he any of his rights with respect to his country, in which, when he returns to it, he is precisely upon the footing that he was before.—The next act of parliament, to which he refers, is that of the 3d of James I. chapter the 4th. This was "an act for the better discovering and repressing of Popish Recusants." Sections 18, 22, and 23, are those which apply to this question. The first of these sections makes it felony in any natural born subject of the king to enter into the service of any foreign prince, or state, without having previously taken the oath of allegiance and abjuration; the 22d section makes it high treason in any one to persuade any of the king's subjects to withdraw themselves from their natural obedience, or to move them to promise obedience to any other prince or state, particularly the Pope, or See, of Rome; the 23d section makes it high treason in any

of the king's subjects to be so willingly withdrawn or reconciled.—Here, to be sure, there is nothing *positively* in favour of the idea of the right of a subject to expatriate himself. Yet, does S. V. after the manner of my Lord Peter, make a shift to twist this act to his purpose; for, says he, though it is made treason in a subject to be “so withdrawn, if the person *withdraws* his allegiance of *his own mere motion*, I apprehend he is not subject to the penalty mentioned in the 23d section.” This statute, therefore, says he, “does not essentially disannul the implication and inference of the statute of Henry VIII. ;” which last mentioned statute does, he says, in the last section, “clearly admit the right of expatriation.”—As S. V. draws no positive inference from this act of James I. ; and merely introduces it for the purpose of disarming it of its hostility, we will leave it where it is, and see, for a moment, whether the last section of the act of Henry VIII. does “clearly admit the right of expatriation.” The words of that section I will insert, after having given the substance of the preamble and of the preceding section; there being but two sections in the act. The preamble states, that many subjects of this realm have gone with their wives and families into foreign countries, that they have there built houses and settled in trade, have sworn obeisance to the powers there, and have thus deprived their native country of the advantages, which she would naturally derive from their exertions and their wealth; that this tends to increase the opulence and strength of those countries, and to the diminution of the opulence and strength of England; wherefore, it is, in the first enacting clause, ordained, that, for the future, as long as such persons so remain, they shall be compelled to pay customs, subsidies, and tolls in the same manner as other strangers; but, that (and now we come to the words of the much-relied-upon section).—“if hereafter it shall happen any such person or persons to return into the realm, and here to tarry and inhabit, that then he or they shall be restored to all such liberties and freedoms in paying of customs and subsidies, and other charges, as all other Englishmen do use to pay, and to have a writ out of the Chancery for the same.” Verily, my Lord Peter, in discovering a permission to wear shoulder-knots, was a bungler compared to him, who has, in this section, found out “a clear admission of the right of expatriation!” There is not, in this act, a word about *allegiance* or *alienage*. No such matter was before the parliament,

who were contriving merely how they should prevent subjects settled abroad from enjoying those immunities which were enjoyed by subjects residing at home. And, as to the “king's writ,” who would not imagine, from the manner in which it is mentioned by S. V. that it was an instrument to *re-naturalize* the party? The writ, as we find in the foregoing section, was merely an order, issued from the Chancery, “to the customers, comptrollers, and other officers of the king's custom, in every port, haven, or creek, within the realm;” and, the purpose of it, in the case contemplated, was, to remove the disabilities of the party as far as related to customs, subsidies and tolls.—The last statute, to which we are referred by S. V. is that of the 5th George I. chapter 27th, made as a check to the emigration of artificers. S. V. calls this an indefinite and very general term; but, he will gather, from the preamble of the act, that *merchants* are not meant to be included, though that, I suppose, is what he would drive at. This act says, that, if any artificer or manufacturer go into a foreign country, and does not return within six months, after warning given him, he shall be deemed an alien; “by which statute,” says S. V. “we see, that Englishmen are expressly allowed to become subjects of other powers.” Expressly! Where does he find this? Does the act say any such thing? No; the act is *penal* all through; and, from the foregoing part of the section, it is obvious, that the party offending was to be considered as an alien, only as that construction of his character would expose him to punishment, or inconvenience. In case of disobedience, after having received due notice to return home, such emigrated artificer is rendered incapable of taking any legacy that shall be devised to him in this kingdom, of being an executor or administrator to any person in this kingdom, of taking any lands, tenements, or hereditaments, by descent, devise, or purchase; and is to forfeit all his lands, tenements, hereditaments, goods, and chattels, in this kingdom, to the king; after which come the only words, that S. V. has thought proper to notice, to wit; “and shall, from thenceforth, be, and be deemed and taken to be an alien, and shall be out of his Majesty's protection.” But, all this is merely for punishment. The emigrant is to be an alien only as far as he is punished by being taken in that character; and, if found in arms against his country, would, notwithstanding this act, be liable to be punished as a traitor. Besides, what does this act make for the doctrine of S. V., upon the supposition that no

warning be given to the emigrant to return home? In that case, he is *not* to be "deemed an alien." So that, according to S. V.'s construction of this act, if two weavers, Jack and Dick, emigrate, and are afterwards found in arms against their country, Jack, who has had due warning to return home, is a prisoner of war, because he is to be deemed an alien; while poor Dick, who has had no warning, and who does not add contumacy to his original offence, is to be hanged by the neck till he is dead! The *warning* being necessary to the perfecting of alienage, no man can be deemed an alien, even in the sense of this act, until the warning be given. This warning to the emigrant is neither more nor less than a *threat* of being deprived of the right of taking legacies, holding lands, &c. and this S. V. denominates "an express permission to become a subject of a foreign state!" But, if, for argument's sake, we were to adopt this absurd construction of the act of George I. what would it avail S. V. as to his main purpose; namely, that of enabling men to withdraw themselves from their allegiance to the king, in order to their security when they had sworn allegiance to the American States? First, they must be *artificers or manufacturers*; next they must, from our ambassador in America, have had *due warning to return home*; and next, they must have *refused to obey that warning*. Is there one single emigrant to America, who can plead this title to the quality of alien? Why, then, refer to this act? And if for the purpose of sanctioning the *principle* of alienage, pray remember the subjoined *conditions*. Alienage upon such conditions, I do not perceive any very great objection to. Let it be made law, that whosoever shall choose to withdraw his allegiance, and become a citizen of America, shall, at once, be, *for ever*, deprived of the rights and immunities of an Englishman; shall take no legacy, hold no lands or houses, forfeit all his goods, chattels, annuities, and debts, and be entitled to no protection whatever from England; pass such a law, for *future* operation, and I have not only no objection to it, if you except those only who have made fortunes from the *public revenue*, but will give it my hearty assent. But, I am not to be inveigled to give my approbation to an alienage "*pro tempore*;" to a to-and-again, a backward-and-forward, allegiance, however convenient it might be to some persons; an allegiance that would enable a man, as an American citizen, to ship off powder to the French, or to command a privateer in the service of France, to day; and, in two months afterwards, to claim, as an Englishman, his right

of throwing into jail, as his debtor, some English merchant, whom he might have ruined by his privateer; and all this with perfect security to himself.—After this, the question, "does it seem *reasonable* that the character of British subject is unalienable," requires but little by way of answer. Nor do I see any necessity for a declaratory law, or a positive stipulation, upon the subject. To the latter I should object, because it would be an unmerited compliment to the Americans, who are the only nation that has hitherto had the audacity to raise a standard of alienage; and because it would seem, as if we thought it necessary to justify ourselves in the eyes of the world for not permitting our laws to bend to their insolent regulations; and, to the former I should object, because it would, as well as a stipulation, imply a doubt as to the past, and give rise to claims of exemption on the part of those, who have heretofore become what they call citizens of the United States.—S. V. seems to think, that he has reduced the law, as it is at present held, to a sad absurdity. "It is requisite," says he, "to make a declaratory law upon the subject of expatriation, because it has been held by persons, sitting in judgment upon the claims of creditors of individuals of a foreign nation, that, although the character of British subject is unalienable by the individual, yet the acceptance of that of subject of another country, bars all right to complain of the acts of the latter." "Now," says he, "what is this, that a British subject cannot expatriate himself, but *having expatriated* himself, he must no more look to his parent country for redress against the acts of his new task-masters? Here is a declaration that a British subject cannot withdraw his allegiance in one line, and, in the next, that he *may* accept of the character of a foreign subject; or, in other words, that he *may* alien his unalienable rights." This passage would have reflected honour upon counsellor Botherem himself. It is really a choice specimen of what a man of talents may do in the way of beating plain words out of their honest meaning. But, Mr. Lawyer Botherem, the little word *cannot*, like a great number of other words, little as well as big, has two meanings; and, in the judiciously confounding of these consists, as far as my observation has gone, no small part of the art of the family of Botherem. *Cannot*, Sir, in the language of the law, and in the sense in which you use it, in the above passage, means, a legal inability or prohibition with respect to

the doing of a thing, and not a physical inability to do it. For instance, we say, that a man *cannot* sit in the House of Commons, unless he has a clear real estate, worth three hundred pounds a year; but, do we thereby mean to say, that no man ever *does* sit there who has not such an estate? We say, that a man *cannot* kill game, unless he have such or such a qualification; but, do we thereby mean to aver, that there are not thousands who *do* kill game without any other qualification, than that of a steady hand and a sharp eye? Speaking, in the same sense, with reference to the laws of England, I say that a man *cannot* become a subject to another state; but, I know that many *do* become subjects of other states; and, therefore, Sir, I see here none of that gross and troublesome inconsistency, of which you complain. The same illustrations will serve for your monosyllable *may*. But, now, Sir, let us put the case (which is, perhaps, drawn from real life) a little plainer than you have put it. A British subject, in America, previous to the close of the rebellion, whose name, for want of a better, shall be *Twister*, has a debt due to him from another American. Mr. Twister becomes a citizen of the United States, takes the oath of allegiance to them, and abjures the authority of his sovereign and country. By-and-by a treaty is made between England and America, in which it is stipulated, that America shall cause to be paid all debts, due to *English subjects*, which debts were prevented from being paid by any acts of the government of America, and of which debts Twister's was one. "Oh!" says he, "I am an English subject still; for my allegiance is *unalienable*;" and forward he comes with his claim. "No," says America, "that will not do Mr. Twister; you are *our* subject; and our stipulation goes only to the payment of debts, due to English subjects." Back he twists to us: "For God's sake," says he, "compel those fellows to do me justice!" "No," say we, "for, though you cannot, agreeably to our laws, become the subject of another state; yet, as you have so become, you have forfeited all just claim to our protection; and you must e'en settle the matter with that state in the best manner that you can." Would to God, that all the decisions of all our courts were as just as this!—It is complained of by S. V. that we permit the subjects of other countries to become subjects of this country, at the same time that we will not extend the principle where our own subjects are concerned, and are desirous of becoming subjects of other countries. I wish

from my soul, that we kept out all foreigners, without a single exception. They are the curse of this country, and always have been its curse. But, when we naturalize people, there is some little ceremony attending it. The persons naturalized are few in number. We do not swear them in by dozen after dozen, like special constables at the eve of Pitt's going to dine in the city. Besides, we have never, that I know of, pretended to any right to *exonerate these naturalized persons from any of the duties, which they owe to their parent state*, and this is precisely the insolent pretension which the Americans put forward. These naturalized persons, *as long as they are under our power*, are under the protection of the laws, and are entitled to all the rights and immunities here enjoyed; but, if they were to return home, or if they were taken in arms against their native country, they would be left by us to experience whatever treatment that country might think proper to adopt with respect to them. But, what the Americans claim, is, that, in virtue of a little bit of printed paper, the blanks of which are filled up for nine-pence, well and duly paid, to some one of their half million of pettifoggers, a British subject becomes released, for as long a time as he pleases, from all the obligations appertaining to his natural allegiance; that, in virtue of the aforesaid nine-penny certificate, he may, though a director of the "*Honourable*" East-India Company, carry on a private-trade to Hindostan without risk of seizure by the British power; that he may supply the enemies of Great Britain with provisions and arms and ammunition, without subjecting himself to punishment by Great Britain, though he should, at the same time, be residing in London; and, not to tire the reader with an endless list of base and traitorous acts, that he may, if war should break out between America and England, carry arms against the latter, with no other risk than that to which a lawful enemy is exposed — Now, a word or two upon the *reasonableness* of our laws, as touching allegiance, in opposition to the opinion of MONSIEUR PECQUET, whom S. V. has chosen for his guide. "The citizen," says this writer, "as an inhabitant of the world, reserves always a sort of natural liberty to renounce the particular advantages of his birth, and to become the subject of another state, *without which he would be, in reality, a slave*. There are no ties of this sort supportable, except such as are formed by affection. Emigrations never take place but *in the hope of being better off in an other country than at*

"home." Suppose this latter assertion to be true, it is no argument in favour of the doctrine before laid down. Apprentices seldom run away, and sailors seldom desert, without the hope of being better off; but, would you, for that reason, conclude, that they have a right to run away, in the one case, or to desert in the other case? But, here, Monsieur Pecquet would say, there is a breach of *obligations*; and, is there, then, no breach of obligations when the citizen, as he calls him, deserts his country? When a child is born, and, even Monsieur Pecquet would, I suppose, have allowed that he must be born, there are, in the country where he is born, a people, by some of whom he must be nursed and fed and clothed and reared up to man's estate. There was a long time when he was able to do nothing in the way of producing those necessities of life, by which he himself was sustained; and, during all that time, the nation (some or other of them no matter who) were compelled to provide him with those necessities; and, what is more, to take care to protect him against all violence, whether from foes foreign or domestic. And, being now grown a man, shall he say to the nation, I made no bargain with you, I entered into no indentures, nor did I take any bounty money when I was born; and, therefore, you have no claim upon me, and I, "as an inhabitant of the world, have a sort of natural right to become a subject of any state that I please, and, if it should so happen to suit, to kill as many of you as I can?" Shall he say this; and will S. V. seriously say, that he is a *slave*, unless he has a right to act agreeably to his words? Monsieur Pecquet seems to have overlooked the *obligations* contracted by man with the nation, in his childhood and in his youth. The nation were *compelled* to support him. No one of them, and no number of them, dared to kill him, either by blows or by starvation. He could *reserve* no *natural* right, for he never had any, except, perhaps, the right of using his senses, and of crying for food. The nation, observe, could not *cast him out*; and cannot now take from him the *rights* of his birth; but, unless he can, at his pleasure, divest himself of the *duties* of his birth, S. V. and Monsieur Pecquet hold him to be, "in *reality* a slave!" The *reciprocity*, of which, in other cases, S. V. talks so much, is here completely lost sight of; and, indeed, it is utterly impossible to maintain this principle of Monsieur Pecquet, with any shew of justice, unless it be allowed, that as the grown-up "citizen" has "a

sort of natural right to become the subject of another state whensoever he pleases," the nation have always "a sort of natural right" to throw the new-born "citizen" into the river, or to leave him upon the bare earth to the care of that "world," as an inhabitant of which he, when grown up, will claim the privilege of acting.—So much for the principle in the abstract; let us now follow S. V. in a view of its application to our present concerns. His main object appears to be to provide beforehand impunity for the persons and security for the property of all those British subjects (and very numerous they are), who may, if war should take place between America and England, be exposed to punishment or loss, in consequence of the part they may take in that war, or in consequence of confiscations levelled at British subjects. He seems to make pretty sure, that some of these persons would, in case of war, be found in arms against their native country, and asks, whether it would not be a "*melancholy* thing, that such persons should be "dealt with as traitors." To which I answer, that it would certainly be melancholy to reflect, that men should be so base as to raise their hand against the nation, in whose bosom they had been warmed into life, nursed, fed, and reared up to manhood; but, that, if, nevertheless, so base they should prove, I, though I never saw punishment of any sort with pleasure, and never saw an execution in my life, should feel no sorrow at seeing such men die upon the gallows. For, observe, the question here, is not, whether, in certain extreme cases, men may or may not be justified in taking up arms against their *rulers*. The principle of S. V. is of quite a different nature. It justifies taking up arms against one's native country; it justifies universal desertion and universal parricide; a principle well enough to be broached and maintained by the Americans, the greater part of whom have, properly speaking, no country; but, a principle to be held in execration by all the rest of mankind. As to the "*perilous* situation" in which the Americanized English would be placed, in case of war, there is always a ready way to avoid that; they having nothing to do but to return to their own country, or to remain inactive in America. "This would expose them to great loss, and, perhaps, to great odium, and even to persecution, such as being confined within their respective townships, assessed in double taxes, and seeing their debtors, private as well as public, freed from their demands." May be so; but, they emigrated for their own pleasure;

after being reared up to manhood by the nation, they went away from it, "in the hope of being better off;" and, it is but fair, that they should take the bad with the good. The instance chosen by S. V. is, perhaps, as perfect as any that could have been pitched upon. Mr. ERSKINE chose to go to America; he chose there to marry, by which he became entitled, as S. V. says, to the rights of citizenship; he then came home and, as is usual, eat his way to the English bar; then a change of ministry sent him as envoy to America, with a pretty decent salary, leaving his father in England, in the receipt of a pension of 4,000 pounds a year for life. Now, if this gentleman, who, observe, besides the general obligations attending his infancy and youth, has received from the nation a share of those benefits arising from endowed colleges, *which endowments are supported by the labour of the nation*; if this gentleman were (I do not suppose the thing possible, mind) to take up arms against his native country, or to aid, either directly or indirectly, any of its enemies, *he ought, if it were possible, to be hanged at every cross-road in the kingdom.*—This applies equally well to merchants, manufacturers, and fund-holders. They have become, no matter how, rich from the soil and the labour of the nation; and, if they choose to withdraw themselves and to carry those riches with them, "in the hope of being better off," be all the "perils", which they will experience in case of war, upon their own heads. It is right they should experience peril: it is right they should suffer; for what can be supposed more unjust, than that the man, who turns his back upon his country, merely for his own interest's sake, should, in all possible cases, be, by the indulgence of his country, placed, as to property as well as person, in as perfect security as the man who remains at home, and who, by the labour or the skill of his manhood, repays the nation for the care and the labour it bestowed upon his infancy?—At every step that we advance, there is some new aspect, in which the detestableness of this principle appears. Allow the right of expatriation, and I see hardly any ground, upon which resistance, of any sort, against government, however villainous and tyrannical that government may be, can be justified. This principle, if acted upon, would dissolve all obligations between the governors and the governed, the former of whom might reasonably say to the latter, "why do you stay here; why do you remain our subject if you can better yourself elsewhere?" So that, in the

end, tyranny would be reserved for those only who had not the means of expatriating themselves, and never would there be a struggle made either for the preservation, or the restoration of freedom.—This abominable principle is at war with the ordinances of the Creator, who has, by the gift of different languages, divided mankind into different nations, by which means is kept up that emulation, which is the great cause of exertion both of body and mind, and which, in various ways, does, more than all other causes, distinguish man from the brute.

EDINBURGH REVIEWERS. The double sheet, which will be published next week, will enable me to comply with the requests of several correspondents, who seem extremely anxious that these political adventurers should be exposed.—I had, at one time, almost resolved to leave them entirely to those, who had more leisure than myself; but, when I consider how great a hand they had in the miserable measures of the Whig ministry, it does appear to me necessary to bestow one day upon them.—I cannot say but I have a sneaking kindness for them. They have done a great deal of good in lashing the boobies and bastards that are fastened upon the public; but, what has long appeared to me evident, is, that they want to supplant them, and to fasten *themselves* upon us; rather than which I, for my part, would have to maintain the boobies and bastards, who, being somewhat gorged already, are likely to suck our blood less unmercifully than those northern leeches would.—All that I want to do, with respect to them, is to keep them *out of place*. If we can but keep them from pocketing the public money, they will be, to use the obituary phrase, most "valuable members of society." This Review, with all their partiality, is, even now, worth all the other things, called Reviews, put together. I will lend an hand to keep them from preying upon us; I will endeavour to prevent them from bringing a colony of Scotch schoolmasters amongst us; but, I will never join the blockheads against them.

DOMINION OF THE SEAS, and

DISPUTE WITH AMERICA.

SIR;—At a moment like the present, every, the most humble individual, who has the pride to call himself an Englishman, and who has the real honour and glory of his country at heart, can hardly be expected to refrain from endeavouring to express his sentiments, in some way or other, respecting the measures necessary for the salvation of

his country's independence; impressed with these feelings, I cannot withhold from you the grateful acknowledgements of an individual, who has read with admiration, your late masterly papers, respecting our dispute with America, and our Dominion of the Sea. —I most cordially agree with you, that the mere circumstance of the possession of naval power, is nothing, unless it be used to demonstrate to the surrounding nations, how effectually we can annoy them with it, whenever, and at the very instant, their hostile threats, or the measures of our inveterate foe, shall force us so to do. On this account, as well as the other advantages, resulting from so bold and decided a measure, the attack on Copenhagen is likely to do us more essential service, than the capture of fifty such places as Buenos Ayres. —It is calculated to impress our enemies with some idea of the magnitude of our power; and, we are actually called upon at this moment, under the particular circumstances in which we are placed, to make Continental Europe feel our power at her very doors, rather than in distant and remote parts of the globe—in such cases, they only see, and feel our power, in a slight or indirect manner. With the colonies already in our possession, and a strict enforcement, of that grand foundation of all our national security and glory, *the act of navigation*, as a perpetual nursery for seamen, we have more than adequate means for the support, or even increase, of our present gigantic naval power; and the whole effect of our taking possession of the remainder of the colonies, still in possession of our enemies, may be produced, in as complete and effectual, and much less expensive manner, by means of our navy alone, than with the co-operation of our land forces. What I allude to is, that we should at once, and at the very commencement of every succeeding war, declare, that we would not permit the smallest intercourse, or an ounce of merchandize, to be carried to or from our enemies colony, under the protection of any neutral flag whatever; otherwise, than in cases, and for such articles, which humanity might call upon us to permit them to receive. This principle I believe to be an extension, though not a considerable one, of the rule of 1756; and, to any neutral power, complaining of its operation, we might with much propriety say, “this measure is not directed against you, or against any one thing you have the least reason to call your rights:—it is solely directed against our enemies; and, it is your misfortune and not our wish,

“that our measures of self defence, should prove injurious to your interests. By our power, we have driven our enemies from the very face of the ocean, and we cannot, nor indeed are we disposed, to permit you, under the character of neutrality, to render our power nugatory. By the same rule, and upon the very same principle, that our enemies forbid you to trade to their colonies in time of peace, we forbid you to do it in time of war: by our naval power, we have cut off all sort of intercourse between their colonies and the mother country, and we have consequently, a just right to consider them as virtually in our possession. The prohibition, in both cases, is founded upon the temporary interest of each party, with which you have no right whatever to interfere.” The rule here laid down, is founded on our just right of making an effectual use of our power by sea, whenever we may be necessitated to exercise that power for the annoyance of our enemies: nor does there appear the smallest degree of injustice done to the neutral nations, admitting, for argument's sake, that famous law—the law of nations. With what justice or propriety, can a neutral complain, of being prevented from trading to a place in time of war, to which he claims no pretensions whatever in time of peace? If, in time of peace, the enemy says to the neutral, “the trade to my colonies is my principal source of commercial revenue, and nursery for seamen, I, therefore, cannot permit you to trade to them,” we, surely, stand in need of no better reason to prevent that trade in time of war. But, I would not stop here, I would prohibit the trade by sea, to or from any port in the world under the sovereignty of our enemies, without our special licence for that purpose: and the same principle and rule of conduct is equally open for their adoption. By not acting up to the full extent of our power of annoyance, we are at once frittering away our strength, and prolonging the miseries of war. In a state of war, every honourable means within our reach ought to be resorted to for the purpose of impressing the enemy with a due sense of our power; and, it is therefore, truly mortifying to see so many miserable concessions and relaxations, in our system of warfare, at the suggestion of commercial men, under the specious pretence, of benefitting the manufactures and commerce of the country. And, in order to shew how extremely dangerous it is for our governors to listen to their insidious insinuations, it is only necessary to mention,

that, *a very considerable part* of the whole body, (indeed *a great majority* of those engaged in the trade to the Continent) of merchants upon the 'Change, are actually *foreigners and aliens*.—Upon this point, I cannot avoid mentioning, how exceedingly foolish was the conduct of the late ministers, who, having treated with the utmost indifference, if not contempt, the real English part of that body, (and amongst whom, I am sure that you, Mr. Cobbett, will allow that there are *some* who have hearts truly English and patriotic) they admitted continually to personal interviews, upon the subject of commercial measures, *a set of the lowest foreign and Jewish merchants and agents*, that are to be met with upon the Royal Exchange; and who, having each told his story according to the bearings of his particular interest, had, in almost every instance, his wishes complied with, upon paying the required fee for a licence under the royal signature; and this too, in such a wholesale manner, that during the last summer, there were frequent instances of licences so granted, and orders in council issued, in the course of the same week, directly counteracting each other. The fees paid for these licences, or sale of the royal signature, in consequence of the silly measures adopted by the late administration, surpassed all bounds—from the lowest computation they must have amounted, to at least, from 20 to 25,000 pounds: my objection to the payment of these fees, however enormous they may appear, is not founded in any tenderness towards the persons who pay them, but, to the inducements it holds out to the needy underlings in office, amongst whom the money is divided, (and who you know perfectly well, are, in fact, the principals in transactions of this sort) to sell the vital interests of the country.—Reverting again to the main object of this letter—what would be the consequence of pursuing a system of warfare, founded upon the principle, of secession on our part, of any further colonial or territorial conquest, but at the same time adopting a total prohibition, upon pain of becoming legal prize, of all sort of intercourse by sea, through the medium of neutrals, with all the enemies ports and colonies, otherwise, than by means of our special permission? The consequences resulting from such a system, would seem of almost equal magnitude, and at the same time attended with circumstances tending less to wound the feelings of honour of foreign nations, as your plan of universal tribute; inasmuch as our prohibition would be solely directed at our enemy; and, however the interest of

some neutrals might be injured thereby, they would not be *bound*, for the mere sake of their honour or independence, to resent it, as a measure of hostility directed equally against them, unless they actually chose to do so, for the very purpose of quarrelling with us.—The system above alluded to, vigorously enforced, would have *three*, at least, very beneficial effects: first, the dread of so heavy a calamity, as must inevitably fall on the population of the enemy, in a war with this country, carried on in this energetic manner, must make him pause, before he dared, from the very impulse of personal safety, to provoke our hostility wantonly. Secondly, the enemies colonies in the course of a few years of war, would be under the *necessity* of trading with us, in order to get rid of the produce of the soil; and for which purpose, we might grant licences, without fee or reward, to neutral vessels according to circumstances, or the situation of our own colonies; by which means we should enjoy all the substantial benefit of an extended colonial commerce, without the expence and inconvenience of its protection; and, in a political point of view, the opening the communication again to the mother country, at a peace, would be equal to the actual restoration of them, were they really in our possession. Thirdly, it would give a most stable, and most effectual prop to our commerce and navigation, at a time when it has, in many cases, almost insurmountable difficulties to contend with; and it would tend particularly to benefit that class of men, at whose constant grumbling, when measures of real energy are employed, you entertain such well founded fears, under the present critical circumstances. I mean the commercial interest: by this system our colonial productions would have the almost total monopoly of the continental market; and even our enemies, though still in possession of the local sovereignty of their colonies, must absolutely supply themselves with the produce thereof through our means; and that too, in such proportions, as we may deem it our interest to permit them to receive at our hands. In order to carry this system into effect to the utmost possible benefit to ourselves, I would have the trade to the enemy's colonies limited, or extended, in proportion to the capability of our own islands being sufficiently productive for the general supply of the continent. I would grant licences to neutral vessels, to bring the produce of the enemy's colonies *to this country*, at such times and in such quantities only, as the state of our own market should warrant.—But, to follow up

the principle of annoyance of our enemies, in the manner it has hitherto been acted upon, that is, by the seizure of their colonies, seems in point of fact, to be pregnant with the utmost danger to ourselves, rather than our enemies; it operates in quite a different manner than what it is, or at least it ought to be, intended to do; it tends rather to weaken than strengthen us, and of course, it becomes a very powerful inducement on the part of the enemy to continue his mode of attacking us, by seizing or threatening every neutral nation within his reach; and particularly all such as are (so far) unfortunately possessed of the alluring invitation of foreign colonies.—By acting upon the principle here laid down and recommended, the whole *national* advantages, both as to profit and means of annoyance, are attainable, in the event of friendly powers being instigated to turn against us, without putting ourselves to a shilling expence; by sending out (instead of expensive expeditions) simple orders to our men of war, to prevent all commercial intercourse with such neutral colonies, the mother country of which, shall have passed under the yoke of the enemy.—What I am here aiming at is, some fixed and unalterable principle of action, or declaration on our part, the operation of which, shall be simple, certain, and effectual; and which should serve for an eternal basis of our conduct towards all foreign or neutral nations, as well in this, as all future wars, whosoever our enemies may be, in which we, or our posterity may be engaged.—From our insular situation, it requires no sort of argument to prove, that our means of annoying any enemy with whom we may happen to be at war, consists in the power of banishing him, and the produce of his land, from the face of the ocean; and, it requires as little argument to prove, that, by the very arrangement the Creator himself has ordained, in the distribution of the productions of each respective nation or soil, he has rendered a very frequent and extensive communication *by sea*, between the various nations of the world, absolutely necessary to their respective existence, and which necessity has become very considerably heightened from the present enlightened and cultivated state of the European nations.—These facts being admitted, how ought a Briton to exult, in being a native of that land, which seems by the very situation in which it is placed, and the noble and independent spirit and intrepidity of her sons, to be pointed out as that favoured nation, who has it in her power resolutely to assert her freedom, in defiance of the whole of Europe (or, perhaps,

the world) raised up in arms against her?—Which has the power to prescribe the very terms of intercourse, not of any one or two nations, but the intercourse by sea, of every nation upon the face of the globe!!! Ought then a nation so gloriously situated to think of assuming a tone of despondency, upon the mere fact, of a few misgoverned or dastardly nations, having fallen into the grasp of a most haughty, artful, ambitious, and, at the same time (with the powerful aid of his advisers) a most ingenious and clever individual?—We are possessed of vast real and effective power—let us not abuse it, but exercise it in a manner, that shall not only evince to foreign nations our consciousness of its possession, but also, convince the whole world, by our moderation and generosity, that we are *worthy* of so great a trust: let us assume a commanding and dignified line of conduct, that shall equally scorn the meanness, of either wounding the feelings of a weak and defenceless nation, or brook an insult from the most powerful. And this principle would seem to me, whatever other persons may think of the matter, to be perfectly reconcileable with our conduct with regard to Denmark. It was necessary for our national safety and security, as the most powerful and only means, under the extraordinary circumstances in which this country is placed, of effectually destroying *the possibility* of any formidable maritime confederacy being formed against us, to demand the possession of her navy, and naval stores, upon certain conditions; that demand was made, (and at the same time supported in a manner to ensure success), in a tone of the utmost candour, manliness, and humanity, and it was no fault of ours that a single shot was fired. Let the terms upon which we can make peace with safety, be made known to the world; let those terms be even very much within the bounds of those we are justly entitled to demand, and are able to enforce; but let them be such only, as shall ensure to our country, for the sacrifices she has made, the full and unadulterated reward, so justly her due; perfect safety, freedom, and independence.—I cannot possibly comprehend upon what sound principle it is, that the late ministers and their advocates, should take so much pains to hold up the terrors of a rupture between this country and America; and, even to go so far, as to preach up the *necessity* of concessions, upon the occasion of every new demand, our good nature, or perhaps, more properly, timorous conduct, has induced her to make. It is surely, to be seen in every walk of life, that a man, without the least assumption of arrogance, may

carry a degree of firmness and resolution about him, to resist all encroachments derogatory to his honour, as shall at once, prevent either an improper favour being asked of him, or his being insulted; whilst on the other hand, a man, adopting a different carriage, and who shall have once shewn symptoms of fear, is sure to be insulted and imposed upon. The latter appears to me, to be our case with respect to America, we have gone on conceding one point after another in such a manner, as to induce her to entertain an opinion of our actually being *afraid* of her power; and in consequence, she presumes to hold that insolent and domineering language, we have been so much accustomed to hear of late. As a combination of trifling circumstances, with those of greater magnitude, may induce her to entertain such a mean opinion of us, I cannot help mentioning to you the circumstance of, what appears to me, a very improper preference given to their ships, over those of other neutral nations, during the time they lay in the River Thames. You must know, that for some (good no doubt) reason or other, no foreign vessels of any nation or description whatever, have for these 6 or 7 years last past, been permitted to come up nearer to London, than the Isle of Dogs opposite Deptford, those belonging to America only excepted; who are permitted to lay in any part of the river they may chuse, for their own convenience; now, though this may be considered as a very foolish circumstance only, yet, I can see no good reason why these domineering gentry should have such a preference of civility shewn them. Why swell the pride of these insolent and contemptuous people with an affected distinction or preference? Why not permit the humble Pappenburg or Kniphausen vessels, to enjoy the same privileges, as neutrals, as those of America? I cannot but fear, indeed, from the whole view of our conduct towards these people, that we have only our own imbecility to blame, for the arrogant and menacing tone they have ventured to assume. You have in your late papers, handled our present dispute with America in such an admirable manner, that it is almost presumption to attempt the mention of it. But, it occurs to me, that, in your paper, taking a view of the probable loss this country might sustain, in consequence of a rupture with America, you did not state one very great advantage which would have resulted from it, and which the system pointed out in the preceding part of this letter, is also calculated to produce; namely, the prevention of

America supplying the Continental market, *which she does at this moment solely to our total exclusion*, with East India and Colonial produce; and which would consequently, force as it were, the consumption of our own produce and manufactures upon the Continent, on a scale equal or nearly so, to the diminution of our exports to America:—at all events, if it did not open a market to our manufactures to the extent of our loss, the advantage derived to our East and West India Merchants taken into the calculation, would fully balance the account, as a transaction of national loss or gain. In short, as our present forbearance, leaves the advantage in favor of the manufacturers, so the event of war, would throw the advantage in favor of our colonial merchants:—the effect, therefore, would be precisely the same as far as the nation is concerned, the difference being merely, an exchange of advantages, amongst a few individuals.

I would not, however, be understood from this sort of calculation, to entertain a moment's hesitation, of sacrificing every idea of commercial profit or gain, whenever the salvation of the honour or independence of our country were at stake. My notions, indeed, of the *foreign* commerce of this country, are somewhat similar to your own—I am of opinion it may be carried too far, and most certainly so, if the basis of its extension, is that of seizing and consequently garrisoning colonies (to say nothing of the expence of the civil department) in distant parts of the world. From the nature of our offensive and defensive power, as a nation, it is obvious, that we require a more extended foreign and domestic commerce, than any other nation, for the very purpose of maintaining our power; the most prominent feature of which power being the possession of ships and seamen, and those resources and regulations, dependent upon commerce, which continue to supply them; and secondly, the pecuniary resources necessary to put in motion and keep up that power. If we can extract the first, and some portion of the second, of these our means of defence, from our commerce, it is all we want from it as a nation; and, so long as we can manage to make our national power and safety go hand in hand with the extension of our commerce, so long ought that commerce to be encouraged and protected, but not one moment longer.—H. C.—*London, 25 Sept. 1807.*

DOMINION OF THE SEAS.

Sir;—I have perused with attention the communications inserted in the last number

of your register on the subject of the dominion of the seas, by your correspondents who assume the signatures of Wroc and Candidus, but I am so far from being convinced by their arguments, that the doctrine which I maintained "that occupancy or first possession confers right" is unsound, that with the additional reflection I have given the subject, I am, if possible, more confirmed in my opinion. It may be proper to observe in the outset, that I mean by the term occupancy, the seizing on and converting to exclusive use that matter which was before in common, and this I believe is the sense which Blackstone, and other writers have attached to the term. Although I have the misfortune to have one of your correspondents (Candidus) in opposition to me, you have but little reason to boast of his support; for he says, "I neither think that occupancy confers right *nor that force confers it*;" now, as we have undeniably acquired the dominion of the sea by force, and as there occur to me only two ways in which this could be done; namely, rightfully and wrongfully; if it has not been effected rightfully as your correspondent is of opinion, it must have been effected wrongfully; therefore we are, according to his own confession, wrongfully in the possession of the dominion of the sea, so that in fact your correspondent and myself come to the same conclusion. We travel indeed, by different roads, but we both arrive at the same spot at last. Yet your correspondent after this admission inconsistently states, "that we are urged by every ray of *reason* and policy to maintain the dominion of the seas." Occupancy or first possession I contend confers right. The Almighty when he created the world gave to man dominion over the sea and endowed him with reason; that reason shews that those gifts which were intended for all mankind, belong to him who first has the good fortune to possess himself of them, or such a portion of them as is necessary for his use and enjoyment. And it further shews that it is unjust to molest him in that possession or to deprive him of it. It is upon this ground I contend, that America and every other nation not in a state of war with this country, have a right to the uninterrupted use of that portion of the sea which their vessels may occupy for the time being, and that to interrupt them in the possession of it is unjust. The things which are the subject of occupancy at present are but few: mankind having consented to give up by far the greatest part in consideration of the advantages which they derive from society, but they did not give up all. Some of which

exist at this day: a few I noticed in my former communication. And if it be unjust to deprive a tenant *sur autre vie* of the estate he acquired by occupancy; if it be unjust to deprive a person of the seat at a theatre which he first possessed himself of; if it be unjust to deprive a ship in the rivers or docks of an advantageous situation which it occupies; and if an hundred similar instances which might be adduced and which must occur to every reflecting mind be unjust; why is it not equally unjust to molest the ships of nations in amity with us in the enjoyment of that portion of the sea which they occupy for the time being? That reason which shews the injustice of the former cases shews in as strong a light the injustice of the last. The right we assume to the Dominion of the Sea consists, it is contended, in the power we have. We possess the strength of a giant, and you would have us use it like a giant, and assert that it is not wrong to do so: but in maintaining this doctrine you become, in fact, the apologist of Bonaparte. And, let me ask your correspondent Wroc, if the possession by occupancy which we have of this country does not confer on us an exclusive right to it, on what ground can we have an exclusive right? We evidently cannot have any. So, if that scourge of humanity should succeed in landing on our shores with his army, instead of cheering your countrymen with the justice of their cause, "thrice are we armed because our quarrel's just, and they but naked though locked up in steel," because their "quarrel with injustice is corrupted," you would damp their spirits by telling them that the enemy possess just as much right to our country as ourselves. This is patriotic conduct with a vengeance! If we have a right to the Dominion of the Sea I really do not see why we should not acquire a right to the dominion of the air. Let a fleet of balloons be filled out and impose such restrictions as may be deemed expedient upon the different neutral nations for the air they breathe: if they resist and should assert that they have a right to breathe uninterruptedly the air which God designed should be in common for all his creatures, tell them you have acquired the right by force and infect the air with some foul disease, the plague for instance, to enforce your just demand. A British prince in answer to the Roman ambassador who demanded tribute said, "tell your master we will nothing pay for wearing our own noses," and I think we might with just as much right impose restrictions upon the different nations of the

earth for wearing their noses as we do impose restrictions upon the navigation of their vessels. Your correspondent Candidus has, in opposition to my position, put a case to prove its absurdity and injustice, and has likewise taken notice of the practice of nations on the discovery of any new territory. The case is this: "suppose," says your correspondent, "an association of men emigrating to South America" (if Monte Video or Buenos Ayres be meant, an event not very likely to take place by the way) "and that while wandering there they should find a considerable territory uninhabited of which they take possession, and that the spot so possessed is in a state of cultivation to afford more than sufficient means of subsistence for three times the number of settlers, what right, let me ask, can such settlers have to refuse to an half starved traveller the liberty of supporting himself by such surplus produce or of adopting a part of that spot for his local habitation?" Having thus put his case, he says, "if right be a virtue and synonymous with justice and equity, I can discover none in the instance I have put," nor can I discover either any justice or equity in the denial; on the contrary, it is repugnant to every principle of justice and humanity. But the doctrine of occupancy loses nothing by this admission. It was never contended by me, that a person had a right to appropriate to himself more than was necessary for his own use and enjoyment. Such an application would be an abuse of the bounty of the benevolent donor, and manifestly unjust, and a more unjustifiable act can scarcely be imagined than refusing an half starved traveller the liberty of supporting himself or of erecting an habitation: but I contend, that the first settlers acquired by occupancy of the territory the right of sovereignty over the whole spot, as well that which was necessary for their subsistence as the remainder. Such traveller therefore, had no right to obtrude himself upon the settlers without their permission: and if his admission would prove detrimental to the welfare of their community, or would interrupt the harmony which existed amongst them, they would have been justified in excluding him; but humanity would have dictated that his immediate wants should be supplied. Indeed, I cannot see any distinction between the case put by your correspondent, of a person entering into the territory of a society of settlers on the continent of America and his coming into this kingdom or into any other country; for justice and humanity in

such a case suggest, that he should be received and his wants relieved; but if his stay in the country into which he had entered should prove detrimental to its welfare, his removal would be justifiable and proper. The right of the settlers to their country is co-extensive with the right which Englishmen have to their territory; and therefore if in the case put by your correspondent he means to contend that the half starved traveller has a *right* to be participator in all the privileges of the first settlers, he might with equal reason contend that Frenchmen, Germans, Russians, Africans, Americans, Chinese, and every other nation upon the face of the earth, have a right, if they thought proper to come amongst us to enjoy all the privileges in common with us which we possess. I have devoted more time and attention to this case than I think it is fairly intitled to, and I come now to the consideration of the other argument advanced by Candidus in opposition to my position, viz. The course adopted by nations on the discovery of any new territory. And this, so far from shewing that it was the opinion of the discoverers that Occupancy does not confer right, if I am not blind indeed proves directly the reverse. What was the conduct of Columbus when he discovered America? Solemnly to take possession of the part he discovered in the name of the sovereigns who sent him, and on this they founded their right. What right had we to claim exclusively for ourselves the discoveries we made on the Continent, and of the different Islands of America? Occupancy or first possession. If this did not confer a right, any other nation would have been equally entitled with ourselves, and contentions would have ensued in consequence. Yet, I do not any where find a dispute on this ground. The nation which first takes possession of a country is considered as having an exclusive right to it by the other nations. If this were not so, a country so taken possession of by a force inadequate to maintain it by arms against its assailants, would be taken possession of by a superior force. Yet, I do not find a single instance of this nature to have occurred, notwithstanding the numerous opportunities which have presented. But your correspondent mentions the case of Portugal. In the discovery of the Brazils, he says, "What did Portugal do? Merely inform the other European powers that by the discovery they had the right. And to that they all assent? No, she sends out a force to maintain the advantage which accident has given her; colonizes the place; and fortifies it with garrisons and other means

“ of defence: but, if it were an acknowledged right, and so recognized by all civilized nations, such precautions would have been superfluous, and merely an insult to the other powers.” In answer to this, I observe, that the measures taken by Portugal would have been unnecessary if there were not wars between nations; but the Brazils being considered as a valuable acquisition, those measures were taken by her that they might not be wrested from her in the event of any war which she might thereafter be engaged in. This was obviously the reason of recourse being had to the precautions alluded to by your correspondent Candidus; of whom I now take my leave, and come to the discussion of the arguments of your other correspondent, who assumes the name of Wroc.—This gentleman has said a great deal about the expediency of the measure. He seems to think, with you, that it is absolutely necessary to our existence as an independent nation. On the discussion of this part of the subject I am not now disposed to enter; and I declined it from the beginning; nor am I prepared to say that your ideas and his are not correct. But, with regard to the justice of the measure, considered abstractedly from its being necessary to our existence as a state, your correspondent inquires “ to what it is that a right is conferred by occupancy?” My answer is, to every matter which may be the subject of occupancy. I stated in *express terms*, that first possession confers right; yet, your correspondent after making some extraordinary remarks, concludes with the remarkable and unwarrantable presumption, that I meant present possession. Does he imagine, that first and present are synonymous when applied to property which has passed through a hundred different hands? Does he suppose I mean that a thief who has the present possession of a purse which he has stolen, acquires a right to it by virtue of that possession? If this were my meaning, the doctrine would be as extravagant and ridiculous as that of the learned gentleman, who inserted his ideas in a former number of your Register, relative to a subject divesting himself of his allegiance. I dislike personalities and invectives, but I cannot feel otherwise than indignant at the conduct of that correspondent, and should have made myself some comments on it, if I had not thought that the doctrine he advanced, like vice, was necessary only to be seen to be despised and abhorred. But to return from this digression, for which I ought to apologize, I do not clearly comprehend what your correspondent means respecting present possession and first possession.

He says, “ what is in the present possession or occupation of one man, may have been first possessed by another; so that two claimants thus situated would be puzzled, according to my rule, to discover to which of them the right belongs. Now, my rule being that occupancy or first possession confers right, I cannot see any puzzle in the business. If a ship occupy a certain station in the River Thames, and is dispossessed of it by force by another ship, there are two claimants, the first occupant and present occupier. And my rule being that first possession confers right, the first occupant according to that rule has the right. But, if the first ship had left the station, and the other had then taken possession of it, and the first had returned and claimed it, the present occupier would clearly be intitled to retain it; because the first ship in abandoning the station had relinquished his right to it, and it again became in common. There is no puzzle except in your correspondent's own “ noddle,” which, indeed, appears to have been sadly puzzled, and his brain much distressed to substantiate a charge of inconsistency in the sentiments which I advanced in my former communication. Yet, upon no better foundation than this *he presumes* that present possession is meant, and accordingly rests his charge of inconsistency on it. Now, I call upon your correspondent to state what right he has to make any such presumption, when *his own head was puzzled* whether he ought to attribute my meaning to first possession or present possession. And I think it would have been more liberal and more consonant to that spirit with which literary contests should always be carried on, and more just to have attributed my meaning to first possession, since it would have been reconcileable to those passages which he states to be repugnant to the contrary construction. Your correspondent has dated his letter from Lincoln's Inn; and, I therefore presume he is learned in the law. Let me, then, ask him, in what manner he would endeavour to expound a dubious passage which might appear in a deed or will? If he possesses any knowledge of the law; if he possesses common sense, he would give it that meaning which would make the whole instrument consistent, if such a meaning could be given to it; and not that which would make it repugnant in itself. Our judges uniformly give dubious passages this construction. Having thus cleared the ground from the impediments which have been raised by your correspondent, I come to the discussion with him of the principle of the right we assume to the

Dominion of the Sea. Your correspondent, in answer to my position that dominion over the sea was the gift of God to all mankind, states that dominion over the Earth was equally the gift of God to all mankind, and that on the principle upon which I contend against the dominion of the sea, Englishmen can have no better title to this island than the inhabitants of any other nation. But there does appear to me to be a wide difference between the two cases: and your correspondent, I think, confounds occupancy of dominion with occupancy of the matter which confers dominion. The inhabitants of Great Britain have acquired a right and an exclusive one to the sovereignty of their country by occupancy or first possession of the territory itself; but the sea, from its nature, is incapable of total occupancy, as much so as the air. A certain portion of it may, as I have contended, belong exclusively to nations as far as may be necessary for navigating their vessels. They retain this right as long as they keep possession of it, but the instant the act of possession ceases the sovereignty ceases also, and it again becomes common, this, then, is the distinction I make between the cases advanced by your correspondent. In the one the right to the sovereignty is acquired by the possession or occupancy of the soil itself; in the other case, no right to the sovereignty is acquired, because the sea is not capable of being actually possessed from its nature. Your correspondent imagines that the cases which I adduced in my former communication do not illustrate the doctrine of occupancy of ships at sea, because in the former there is a superior human power to punish an infringement, but the reason here assigned is very unsatisfactory; on what foundation are or ought to be these courts constituted which punish those infringements but reason, and so imperfect are they that it is frequently necessary to correct their decisions thereby; our court of chancery has this for its object. How much better is it, then, to resort at once to reason for a rule to ascertain the justice or injustice of an action, than to resort to human courts, shackled as they are by rules, and legal quirks and quibbles! How much better to drink at the pure source of a stream than after its waters are corrupted! It is reason in all cases which shews whether an act be just or unjust. Persons who have beyond all doubt committed crimes frequently escape punishment on account of some defect in the legal proceedings; but though no human power does inflict punishment in those cases, does not reason point out that they are unjust? and reason equally points out, whether an

action be just or unjust although no human power has jurisdiction over it. Besides, in legal proceedings the judge is frequently left by the law to exercise his reason to ascertain whether an act be just or not as in one of the cases I mentioned before. A person enters a Theatre and takes possession of a commodious seat which he finds vacant: another comes afterwards and dispossesses him of it for which he is summoned to appear before the sitting magistrate at Bow Street. The parties being assembled and the fact proved, the magistrate considers the nature of the offence. He reflects thus: To offer violence to the person of another unjustly is an assault; but how is this unjust? If force confers right according to Mr. Cobbett's Ideas, this cannot be so. But the magistrate would shrink back at the idea and would say force cannot confer right, 'tis contrary to that reason with which God endowed me to distinguish between right and wrong. And he would therefore adjudge the ejector to have been guilty of an assault and compel him to give security to appear at the sessions, to answer for the same. Therefore, after all, recourse must be had to reason to ascertain whether this action be just or unjust; and recourse must also be had to reason to find whether an action be just or not when no human power takes cognizance of it. Reason is superior to law, and appeals will be made to it against decisions of law (tho' your correspondent being a lawyer may say, *lex est summa ratio*, and contend that the rule is equally true with that which says, The King can do no wrong). Does your correspondent still hold out! and will he, after this, insinuate that reason is not the best rule to determine whether the dominion of the sea is just or unjust as well as the particular instances which I noticed before? Having thus taken a general review of the arguments advanced by your correspondents on the general principle of the superiority we exercise on the seas, and added some reflections and illustrations in support of my side of the question which have occurred to my mind since I sent my former communication, I will briefly notice the objections made by your correspondent Wroc to the particular instances I advanced in that communication. Your correspondent inquires, how the first possessor could transmit to others that right which it is confessed on all hands endured no longer than his own actual possession, and states that the title of an individual to any particular piece of land arises not from its having been awarded to him or his ancestors by the dictates of natu-

ral reason, but by the law of the country in which he lives. Now, in answer to this, I must observe that it was never stated by me that the right ceased with the possession. In the case of land the natural right I admit does, but then the law interferes and enables him to transmit it to others. The right is first acquired by occupancy, but it is handed down to the present possessor by the law. My assertion, therefore, that exclusive possession can be justified on no other ground than occupancy is correct. Your correspondent says it would be a difficult task to account for the right of the eldest son to succeed to the inheritance of real estates in exclusion of his brothers and sisters. I, Mr. Cobbett, who am a younger brother, do give my hearty assent to this proposition. But, in doing so, I do not think that I make any admission inconsistent with my former statement. The learning advanced me on the subject of the estate for the life of another person has likewise received the censure of your correspondent. He says the occupant does not retain the estate because the law of nature dictated by natural reason awards it to him, but because the law of England did not allow of any person being turned out of possession unless he could make it appear that he was by law intitled to it. Now your correspondent appears to me to admit all that I contend for; for on what ground does the law of England not allow any person to be turned out of possession? why, this—that *it was unjust to deprive another of that of which he had possessed himself, first*. But your correspondent does not state the case fairly: the language of the law is this, *unless some person could make it appear that he had a better right*: thereby admitting, that the person in possession had acquired a right by occupancy. I believe I have now noticed, and have endeavoured to answer all the objections which have been advanced against the sentiments which I expressed in my former communication. If any thing has been omitted, it is owing to inadvertence and not to disrespect, for the opinions of your correspondents, who, I hope, will point it out at some other period, and advance arguments more convincing in opposition to my doctrine, than they have hitherto done, which would give me the most sincere and heartfelt pleasure: for I never undertook a more painful task in my life, than in endeavouring to shew that we are unjustifiable in exercising the dominion of the sea in the manner we have done. But by so doing, I considered that I defended the honour of my country; and loss of honour, I conceive, to be loss of every thing valuable.—R. R.

DOMESTIC OFFICIAL PAPERS.

BUENOS AYRES.—From the *London Gazette Extraordinary*, dated Downing street, September 12, 1807.

(Continued from p. 512.)

A creek being found soon after the first boats landed, the whole were got on shore without any opposition, or any accident, except that several of the transports were aground, but got off without damage.—The conduct of the officers and men on this occasion induced me to give out the accompanying general order: 200 seamen, under the orders of Captains Rowley and Joyce, were thought sufficient to land for the present; and I feel much indebted to those officers who had made themselves acquainted with the river, and piloted the squadron and transports.—Lieut. Bartholomew, of the *Diadem*, who was strongly recommended by Admiral Stirling, for his knowledge of the river, embarked with me; and I feel it my duty to state to their lordships, that he was of infinite service; as were Lieut. Talbot, of the *Encounter*, Lieut. Acott, of the *Rolla*, and Lieut. Herrick, of the *Raisable*, who undertook the pilotage.—On the evening of the 28th, the *Paz* and *Staunch* joined; the *Staunch* had taken a sloop, and destroyed 2 others of a convoy going to the south shore for troops. I have directed Capt. Thompson, in the *Fly*, towards Buenos Ayres, with the *Staunch*, *Paz*, and *Dolores*, to endeavour to keep up a communication with the army.—I have the honour to be, &c. (Signed) GEO. MURRAY.

Extract of a Letter from Rear Admiral Murray, dated *Nereide*, off Buenos Ayres, July 8, 1807.

Sir,—By my letter of the 30th ult, their lordships will be informed, that the army under the command of Lieut. Gen. Whitelocke, was landed without opposition or accident on the 28th near Barragon, about 20 miles to the eastward of Buenos Ayres.—On the 30th, the *Nereide*, small craft and transports weighed, and anchored again to the westward of *Quelmes*; the next morning I went in shore in the *Flying Fish* to endeavour to communicate with the army, having directed some transports with provisions to go close in, in case the army should want supplies.—Capt. Corbe, in his boat, discovered some of our troops, and sent Lieut. Blight, of the *Nereide*, on shore: he with difficulty got to them, being obliged to pass through a deep bog: on the 2d, Lieut. Blight returned and informed me he had seen Gen. Whitelocke the evening before; that the army had suffered most severely on their march, having very deep marshes to pass, and having been obliged to leave their

provisions behind them; were much in want of bread and spirits, which were immediately landed from the Encounter and transports. As I understood that General Gower had advanced towards Buenos-Ayres, I directed Capt. Thompson, in the Fly, with the gun brigs, to get as near in as he could: the same day I received a letter from Col. Bourke, Quarter-Master-General, to say he was directed by Gen. Whitelocke, to inform me that he had marched on, and meant to go to the westward of Buenos-Ayres, requesting I would send the ships having heavy artillery there, and likewise provisions. I immediately sent the gun boats to join the Fly and gun brigs, and directed Capt. Thompson to get as close in to the Westward as he could. The transports with the guns, and those with provisions, as well as an hospital ship, I likewise sent there, and am happy to say they were all in shore on the 4th, ready to meet the army.—On the 5th a firing was observed in the town; I desired Capt. Thompson to make use of the gun brigs and boats, when he could, without annoying our own people, who appeared to be both to the eastward and westward of the town.

To be continued.

DENMARK.—*Declaration of the King of Great Britain, relative to the War with Denmark, dated Westminster, September 25, 1807.*

(Concluded from page 544.)

But the season was approaching when that precaution would no longer have availed; and when his Majesty's fleet must have retired from that sea, and permitted France in undisturbed security, to accumulate the means of offence against his Majesty's dominions. Yet, even under these circumstances, in calling upon Denmark for the satisfaction and security which his Majesty was compelled to require, and in demanding the only pledge by which that security could be rendered effectual—the temporary possession of that fleet, which was the chief inducement to France for forcing Denmark into hostilities with Great Britain; his Majesty accompanied this demand with the offer of every condition which could tend to reconcile it to the interests and to the feelings of the court of Denmark. It was for Denmark herself to state the terms and stipulations which she might require. If Denmark was apprehensive that the surrender of her fleet would be resented by France as an act of connivance, his Majesty had prepared a force

of such formidable magnitude, as must have made concession justifiable even in the estimation of France, by rendering resistance altogether unavailing. If Denmark was really prepared to resist the demands of France, and to maintain her independence, his Majesty proffered his co-operation for her defence—naval, military, and pecuniary aid; the guarantee of her European territories, and the security and extension of her colonial possessions.—That the sword has been drawn in the execution of a service indispensable to the safety of his Majesty's dominions, is matter of sincere regret to his Majesty. That the state and circumstances of the world are such as to have required and justified the measures of self-preservation, to which his Majesty has found himself under the necessity of resorting, is a truth which his Majesty deeply deplores, but for which he is in no degree responsible. His Majesty has long carried on a most unequal contest of scrupulous forbearance against unrelenting violence and oppression. But that forbearance has its bounds. When the design was openly avowed, and already but too far advanced towards its accomplishment, of subjecting the powers of Europe to one universal usurpation, and of combining them by terror or by force in a confederacy against the maritime rights and political existence of this kingdom, it became necessary for his Majesty to anticipate the success of a system, not more fatal to his interests than to those of the powers who were destined to be the instruments of its execution. It was time that the effects of that dread which France has inspired into the nations of the world, should be counteracted by an exertion of the power of Great Britain, called for by the exigency of the crisis, and proportioned to the magnitude of the danger. Notwithstanding the declaration of war on the part of the Danish government, it still remains for Denmark to determine whether war shall continue between the two nations. His Majesty still proffers an amicable arrangement. He is anxious to sheathe the sword, which he has been most reluctantly compelled to draw. And he is ready to demonstrate to Denmark and to the world, that having acted solely upon the sense of what was due to the security of his own dominions, he is not desirous, from any other motive, or for any object of advantage or aggrandisement, to carry measures of hostility beyond the limits of the necessity which has produced them.